

**STATE OF CALIFORNIA  
REGIONAL WATER QUALITY CONTROL BOARD  
LOS ANGELES REGION**

<b>In the matter of:</b>	)	<b>Complaint No. R4-2009-0017</b>
	)	<b>Administrative Civil Liability</b>
<b>The Kissel Company, Inc.</b>	)	<b>Pursuant to California Water Code §13350</b>
<b>Paradise Cove Mobile Home Park</b>	)	<b>For Violations of</b>
<b>Malibu, CA</b>	)	<b>Order Nos. R4-2002-0108, R4-2006-0079, &amp; R4-2007-0043</b>

**YOU ARE HEREBY GIVEN NOTICE THAT:**

1. The Kissel Company, Inc. (Permittee), owner and operator of the Paradise Cove Mobile Home Park (Park), is alleged to have violated requirements contained in Order No. R4-2002-0108, Amended Time Schedule Order (Amended TSO) No. R4-2006-0079 and Cleanup and Abatement Order (CAO) No. R4-2007-0043 for which the Regional Water Quality Control Board (Regional Board) may impose administrative civil liability under § 13350 of the California Water Code (CWC).
2. The Permittee is alleged to have violated Regional Board Order No. R4-2002-0108, Amended TSO No. R4-2006-0079 and CAO No. R4-2007-0043 by failing to comply with prescribed schedules, by discharging untreated sewage at the Park between April 2007 and July 2008 and by failing to submit groundwater monitoring reports.
3. A hearing shall be conducted on this Complaint by the Regional Board or a Regional Board Hearing Panel (Hearing Panel) within 90 days after service of this Complaint on the Permittee pursuant to CWC §§ 13228.14 and 13323, unless the Permittee waives the hearing and pays the recommended penalty of \$1,652,500 by February 27, 2009. The Permittee's representative(s) will have an opportunity to be heard and to contest the allegations in this Complaint and the imposition of civil liability by the Regional Board. The Notice of Public Hearing contains the date, time, location, and specific procedures of the scheduled hearing.
4. The Regional Board will consider whether to affirm, reject, or modify the proposed administrative liability, or whether to refer the matter to the Attorney General for recovery of judicial civil liability in a greater amount. •

February 4, 2009

**THE FOLLOWING FACTS ARE THE BASIS FOR THE ALLEGED VIOLATIONS IN THIS MATTER:**

**I. BACKGROUND**

5. The Kissel Company, Inc. owns and operates the Paradise Cove Mobile Home Park, which encompasses approximately 72 acres of land with 257 mobile home sites located at 28128 Pacific Coast Highway in Malibu, California. The average daily flow of domestic wastewater has been estimated at 41,000 gallons per day (gpd). The peak flow rate is estimated at 60,000 gpd. All homes in the Park are located within 1,500 feet of the Pacific Ocean.
6. On May 23, 2002, the Regional Board adopted Order No. R4-2002-0108 prescribing Waste Discharge Requirements (WDRs) for the Park to operate an on-site wastewater treatment plant and discharge treated effluent to a subsurface disposal system consisting of seepage pits, leach fields, or subsurface drip irrigation areas. At the time, the Permittee indicated that it could not immediately comply with the requirements contained in Order No. R4-2002-0108 because the existing septic system needed to be upgraded. In order to ensure compliance with the WDRs, the Regional Board adopted Time Schedule Order No. R4-2002-0109 that allowed the Permittee to complete all needed upgrades by November 30, 2003. The Permittee did not meet the deadlines prescribed in TSO No. R4-2002-0109.
7. The Regional Board received a letter dated July 20, 2003 from the Permittee's consultant, Nolte Associates, Inc., requesting an extension of the final completion date for the construction of the wastewater treatment plant. On January 4, 2004, the Regional Board informed the Permittee that its extension request was granted and extended the deadline for completion of the wastewater treatment plant to September 30, 2004.
8. Order No. R4-2002-0108 contains the following discharge requirements:
  - a. WDR General Provision D.1 states:  
"There shall be no overflows of the community sanitary sewer in this facility or discharge of wastes to waters of the State (including storm drains) at any time."
  - b. WDR General Provision D.9 states:  
"The treatment system, including the collection system and the disposal system, shall be maintained in such a manner that at no time sewage will be permitted to surface or overflow at any location."
  - c. WDR General Provision D.11 states:  
"Wastes discharged shall at no time contain any substance in concentrations toxic to human, animal, plant, or aquatic life."
  - d. WDR General Provision D.12 states:  
"The discharge of waste shall not create a condition of pollution, contamination, or nuisance."

- e. WDR General Provision D. 13 states:  
"The direct or indirect discharge of any wastewater to surface waters or surface water drainage courses is prohibited."
  - f. WDR General Provision D. 14 states:  
"Any discharge of wastewater from the treatment system (including wastewater collection system) at any point other than specifically described in this Order is prohibited, and constitutes a violation of the Order."
  - g. WDR Provision E. 10 states:  
"This Order includes the attached Monitoring and Reporting Program (Attachment T) which incorporated herein by reference."
9. Order No. R4-2002-0108 prescribed groundwater monitoring requirements that required the Permittee to conduct groundwater sampling for pH, total and fecal coliform, enterococcus, nitrate-nitrogen, nitrite-nitrogen, total nitrogen, and total dissolved solids on a quarterly basis from the six monitoring wells located throughout the Site.
10. On October 24, 2006, the Regional Board adopted Amended TSO No. R4-2006-0079. The Amended TSO prescribed deadlines for the completion of three tasks needed to bring the Park's treatment system into compliance with its WDRs. The Amended TSO required the Permittee to comply with the following tasks and respective deadlines:
- A. "By November 1, 2006, complete construction of the wastewater treatment plant. Should there be any changes to the plant's final engineering plans dated April 2004, revised plans including 'as built' drawings shall be submitted."
  - B. "By December 1, 2006, remove or legally abandon septic tanks not part of the new treatment system, according to guidelines set by the Uniform Plumbing Code (I - 11 a, b and c)."
  - C. "By February 1, 2007, achieve full compliance."

The Permittee did not meet these deadlines

11. On September 5, 2007, the Regional Board issued CAO No. R4-2007-0043 to the Permittee. CAO No. R4-2007-0043 was issued in response to the chronic unpermitted discharges of untreated sewage at the Park. CAO No. R4-2007-0043 ordered the Permittee to take remedial action to cleanup and abate actual and threatened discharges of raw sewage at the Park. Such action includes: (i) immediately cease all unauthorized sewage discharges; (ii) immediately cleanup, abate the risks from, and properly dispose of any residual waste from any of the unpermitted discharge locations; and (iii) immediately take measures to abate the ongoing threat of sewage discharges by adopting and implementing a Spill Prevention Plan.

12. As the owner, operator, and sole permittee, the Kissel Company, Inc. bears full responsibility to comply with all provisions of Order No. R4-2002-0108, Amended TSO No. R4-2006-0079, and CAO No. R4-2007-0043.

## II. GEOLOGY OF THE SITE

13. The geological materials underneath the Park consist of fill, silty sand and sandy clay soil, marine terrace deposits, and the Monterey Formation siltstone bedrock. Groundwater underneath the Park was reportedly encountered at depths varying between 6 feet and 81 feet below ground surface. According to the lithologic logs from all the borings drilled at the Park, there is no continuous impermeable layer (i.e. aquitard) between the land surface and the groundwater table.
14. The geological materials underneath the Park are porous media consisting of unconsolidated loose sands, sandy clay, and marine terrace deposits, or fractured bedrock, all of which are pathways for percolating water. Wastewater discharged to the percolation pits at the Park will travel through the vadose zone (unsaturated zone between land surface and groundwater table) by gravity, and reach the groundwater underneath the pits. Observations from several soil boreholes reported by the Permittee's previous consultant have demonstrated that the percolated wastewater from nearby pits has caused the local groundwater table to rise.

## III. BENEFICIAL USES

15. The *Water Quality Control Plan for the Coastal Watersheds of Los Angeles and Ventura Counties* (Basin Plan) has the following beneficial use designations:

### Surface water (Ramirez Canyon Creek):

Existing: wildlife habitat

Intermittent: municipal and domestic water supply, contact and non-contact recreation, warm fresh water habitat

Potential: spawning, reproduction, and /or early development

### Groundwater (Malibu Valley): \*

Existing: agricultural supply

Potential: municipal and domestic water supply, industrial service supply

### Coastal Features (Escondido Beach):

Existing: navigation, water contact recreation, non-contact water recreation, commercial and sport fishing, marine habitat, wildlife habitat and shellfish harvesting

Potential: spawning, reproduction, and/or early development

#### IV. COMPLIANCE HISTORY

16. The Permittee failed to submit a groundwater monitoring report for the 1<sup>st</sup> Quarter 2003 for pH, total and fecal coliform, enterococcus, nitrate-nitrogen, nitrite-nitrogen, total nitrogen, and total dissolved solids for Monitoring Well MW-4. The quarterly report was due to the Regional Board by March 31, 2003.
17. On February 14, 2006, Regional Board staff was notified of a sewage spill originating from a manhole located in front of Unit #223 in the Bluffs area of the Park. On February 15, 2006, Regional Board staff conducted an inspection of the site and determined that untreated sewage had flowed down the ocean frontage road, towards Walnut Creek, but did not reach the Pacific Ocean.
18. On March 3, 2006, the Regional Board issued the Permittee a Notice of Violation (NOV) for the February 14, 2006 discharge of untreated sewage at the Park. The NOV required that the Permittee submit to the Regional Board a report detailing implementation of corrective and preventative actions taken to prevent future sewage spills.
19. The Permittee failed to submit a groundwater monitoring report for the 1<sup>st</sup> Quarter 2006 for pH, total and fecal coliform, enterococcus, nitrate-nitrogen, nitrite-nitrogen, total nitrogen, and total dissolved solids for Monitoring Well MW-4. The quarterly report was due to the Regional Board by March 31, 2006.
20. On March 30, 2006, the Permittee responded to the March 3, 2006 NOV and explained its response to the February 14, 2006 sewage spill. The letter included no details on any corrective measures to prevent future sewage spills at the Park. In addition, the Permittee did not include details on any corrective and preventive measures to bring the discharge into compliance with requirements prescribed in Order No. R4-2002-0108.
21. On September 26, 2006, the Regional Board issued the Permittee a NOV for discharges of untreated sewage at the Park on August 9, 2006, August 15, 2006, August 19, 2006, and September 17, 2006. The NOV required that the Permittee submit to the Regional Board a report detailing corrective and preventative actions taken to prevent future sewage spills.
22. On October 19, 2006, the Permittee sent a letter to the Regional Board providing an update on the installation progress of the new septic system. Despite previous assurances, the Permittee informed the Regional Board that it would not meet the expected November 1, 2006 completion date and that the septic system was approximately one month behind schedule.
23. On October 24, 2006, at a public hearing, the Regional Board adopted Amended TSO, No. R4-2006-0079, as noted above. The Amended TSO prescribed deadlines for the completion of three tasks needed to bring the Park's treatment system into compliance with its WDRs. During the hearing, Mr. Steven Dahlberg, President and Chief Executive Officer of the Permittee, testified that the Permittee would not be able to meet the November 1, 2006 deadline to complete construction. Mr. Dahlberg testified that the

Permittee was "now extremely close to completion" and that the Permittee was approximately one month behind schedule.

24. During adoption of Amended TSO No. R4-2006-0079, the Regional Board attempted to establish stipulated civil liabilities of \$3,000, pursuant to CWC section 13308, for noncompliance with the prescribed deadlines. However, the Prosecution Team has been advised by its legal counsel that such establishment of stipulated penalties was not valid, as the Regional Board did not determine at the hearing that there was a threatened or continuing violation of a CAO, cease and desist order, or an order issued under CWC section 13267 or 13383. The remaining portions of the Amended TSO are valid and enforceable. As such, the Regional Board may assess discretionary civil penalties under CWC section 13350 for violation of the Amended TSO.
25. On October 25, 2006, the Permittee responded to the September 26, 2006 NOV and stated that pump trucks were used to pump the affected system and that cleanup commenced immediately. The Permittee also stated that sand bags were placed in the spill area and that disinfection was achieved by spraying bleach over the entire affected area.
26. On November 8, 2006, the Regional Board issued the Permittee a NOV for failure to meet all three deadlines prescribed in Amended TSO No. R4-2006-0079.
27. On November 22, 2006, the Permittee filed a petition with the State Water Resources Control Board seeking review of the Amended TSO and asked that the petition be held in abeyance.
28. On December 13, 2006, the Regional Board issued the Permittee a NOV for failing to comply with Items A, B and C prescribed in Amended TSO No. R4-2006-0079 by not completing construction of the treatment plant, removing all old septic tanks, and not achieving full compliance with its WDRs by the deadlines.
29. On February 21, 2007, the Regional Board issued the Permittee a NOV for failing to comply with Amended TSO No. R4-2006-0079 by not removing all old septic tanks and not achieving compliance with its WDRs. On the basis of a February 1, 2007 onsite inspection, where the wastewater treatment plant was operating, the Regional Board determined at that time that construction of the wastewater treatment plant was complete and compliance with Item A of the Amended TSO has been achieved. However, soon thereafter, a design flaw in the disinfection system of the treatment plant was discovered, thereby requiring further construction and installation.
30. On April 30, 2007, Regional Board staff received Governor's Office of Emergency Services (OES) Report No. 07-2626, regarding an ongoing sewage spill at the Park. The report gave notice of an untreated sewage discharge from a manhole. The spill was reported to OES by a Park resident. The untreated sewage flowed into a stormwater drainage swale and then into Walnut Canyon Creek, which is located in the northwest section of the Park.

31. On May 1, 2007, Regional Board staff received an email from Steve Dahlberg reporting two sewage spills that occurred on April 30, 2007 and on May 1, 2007 that originated from a "cracked pipe" at the Bluff area of the Park. According to Mr. Dahlberg, the volume of the spills was no more than 200 gallons. The untreated sewage flowed into a stormwater drainage swale and then into Walnut Canyon Creek.
32. On May 2, 2007, a Park resident contacted Regional Board staff to report the two sewage spills that occurred on April 30, 2007 and May 1, 2007. The Park resident stated that the sewage spills originated from a septic tank in the Bluff area of the Park.
33. On May 15, 2007, Regional Board staff received a notification letter from Steven Dahlberg regarding the two sewage spills that occurred on April 30, 2007 and May 1, 2007. In his correspondence, Mr. Dahlberg stated that a resident reported the April 30, 2007 spill to the front gate at approximately 4:30 PM; but the Park's maintenance crew had already left for the day. Therefore, Ely Jr. Pumping was called to pump down the tank, which was the source of the spill. However, the next morning the Park's maintenance crew discovered an ongoing spill at the same location. The tank was pumped down again and the area was cleaned. According to Mr. Dahlberg, the volume of both spills was no more than 200 gallons. The untreated sewage "ran to drainage swale" and then to the fire road, which runs down to Walnut Canyon Creek.
34. On July 22, 2007, Regional Board staff received complaints from Park residents regarding a sewage spill that occurred on July 20, 2007. The sewage spill originated from a pipe located in front of Unit #86, near the entrance to the Park. The volume of the spill was estimated to be approximately between 100 gallons and 150 gallons. The untreated sewage flowed into a storm drain and thence into Ramirez Canyon Creek.
35. On August 8, 2007, the Regional Board issued the Permittee a NOV for, among other things, fourteen reporting violations of Order No. R4-2002-0108 and failure to meet all three deadlines in Amended TSO No. R4-2006-0079. The Regional Board also required the Permittee, pursuant to CWC section 13267, to provide information on twelve reported discharges of untreated and/or partially treated sewage from September 30, 2006 to July 23, 2007 at several locations within the Park. The NOV required that the Permittee submit to the Regional Board a report detailing implementation of corrective and preventative actions to bring the discharge into full compliance with effluent limitations of Regional Board Order No. R4-2002-0108 and Amended TSO No. R4-2006-0079 and to prevent future sewage spills.
36. On August 10, 2007, the Permittee informed the Regional Board that the final two septic tanks were abandoned on July 27, 2007 and that all known pits had been abandoned prior to that.
37. On August 13, 2007, the Permittee completed construction of the wastewater treatment plant.

38. On August 14, 2007, Regional Board staff received complaints from Park residents regarding a sewage overflow at Units #152 and 153.
39. On August 18, 2007, Regional staff received complaints from Park residents regarding a sewage overflow at Unit #153.
40. On August 24, 2007, Regional Board staff received complaints from Park residents regarding another sewage spill at the Park. Regional Board staff immediately conducted an inspection of the Park and found that a sewage overflow had occurred at Unit #151.
41. On August 29, 2007, the Regional Board received correspondence from Steven Dahlberg reporting the August 14, 2007, August 18, 2007, and August 24, 2007 sewage spills at Units #152 and #153. Mr. Dahlberg stated that the cause of the spill was a blockage in the collection lateral and estimated that the volume of each incident was between 5 gallons and 25 gallons. In his letter, Mr. Dahlberg also stated that the Park maintenance crew had responded to the spill and followed procedures for clean up as soon as they were notified.
42. On September 5, 2007, the Regional Board issued CAO No. R4-2007-0043 to the Permittee, as noted above. CAO No. R4-2007-0043 was issued in response to the chronic unpermitted discharges of untreated and partially treated sewage at the Park. Among other requirements, CAO No. R4-2007-0043 ordered the Permittee to immediately cease all unauthorized sewage discharges.
43. On September 7, 2007, the Permittee submitted a response to the Regional Board's August 7, 2007 NOV and Requirement to Submit Information. The Permittee's response contained several challenges to the Regional's issuance of the NOV and Amended TSO. The Permittee, however, did submit a Technical Report concerning the alleged discharges of untreated and/or partially treated sewage as required by the Requirement to Submit Information.
44. On September 10, 2007, Regional Board staff received complaints from Park residents regarding a sewage overflow that originated from the storage yard and ran down the street to the playground area. On September 14, 2007, Regional Board staff received a letter dated September 11, 2007 from Steve Dahlberg reporting the spill. In his letter, Mr. Dahlberg stated that the spill originated from pump station 3, which is located across from the clubhouse. Mr. Dahlberg also stated that Bart Slutsky and Zack Adams estimated that the volume of the spill was approximately 150 gallons.
45. On September 13, 2007, Regional Board staff received complaints from Park residents regarding a sewage overflow originating at the storage yard, and running down the street to the playground area. Mr. Steve Dahlberg reported the September 13, 2007 spill in a letter dated September 20, 2007 to the Regional Board, wherein he describes the sequence of events and the Park's maintenance crew response to the spill, which was approximately 150 gallons.

46. On September 18, 2007, Regional Board staff received email complaints from Park residents regarding a sewage overflow originating from Units #150 and #151. On September 25, 2007, the Regional Board received correspondence from Steven Dahlberg reporting the September 18, 2007 sewage spill at Unit #151. Mr. Dahlberg stated that the Paradise Cove maintenance crew had responded to the spill and at the time of their arrival, the overflow had ceased. In his letter, Mr. Dahlberg stated that the maintenance crew estimated that between 5 gallons to 10 gallons had spilled, and that they proceeded to clean up the spill area with bleach and remove and dispose of the contaminated soil.
47. On September 21, 2007, Regional Board staff received complaints from Park residents regarding a sewage spill originating from a manhole located in front of Unit #253 in the Bluffs area of the Park.
48. On September 22, 2007, Regional Board staff received complaints from Park residents regarding a sewage overflow at Unit #253.
49. In a letter dated September 27, 2007, Mr. Dahlberg stated that the Park residents did not inform or report the September 21, 2007 and September 22, 2007 events to the Permittee. Mr. Dahlberg also stated that no spill occurred on September 22, 2007 at the Park.
50. On October 1, 2007, the Regional Board received the Permittee's response to CAO No. R4-2007-0043. Mr. Steven Dahlberg stated that, when notified of a sewage spill, the Permittee takes immediate steps to clean up the discharges and that either the Permittee's pump truck or an outside contractor is dispatched to the spill site.
51. On October 4, 2007, the Permittee filed a petition with the State Water Resources Control Board seeking review of CAO No. R4-2007-0043 and asked that the petition be held in abeyance.
52. On October 7, 2007, Regional Board staff received a phone call from Mr. Dahlberg regarding a sewage spill at Unit #153. On October 11, 2007, the Regional Board received a letter from Mr. Dahlberg reporting the October 7, 2007 sewage spill. In his letter, Mr. Dahlberg stated that less than 50 gallons was spilled from a septic pit in front of Unit #153.
53. On November 20, 2007, Regional Board staff received an email from Mr. Dahlberg reporting a sewage spill that occurred on November 19, 2007 at Unit #266. Furthermore, on December 3, 2007, the Regional Board received a letter from Mr. Dahlberg describing the November 19, 2007 spill. In his letter, Mr. Dahlberg stated that the spill was caused by a blockage in the lateral from Unit #226 and the volume spilled was estimated to be less than 5 gallons.
54. On March 4, 2008, Regional Board staff received an email from a Park resident regarding a sewage spill that occurred on March 3, 2008 from a manhole located in front of Units #252 and #253. The Park resident did not report the volume of the spill.

55. On April 5, 2008, Regional Board staff received notification from Mr. Dahlberg regarding a sewage spill on April 4, 2008 that originated from the sewer clean out of Unit # 213. On April 24, 2008, the Regional Board received correspondence from Mr. Dahlberg describing the location, sequence of events, response and cleanup of the April 4, 2008 spill. In his letter dated April 9, 2008, Mr. Dahlberg stated that no more than 5 gallons was spilled.
56. On April 30, 2008, Regional Board staff received notification from Mr. Dahlberg regarding a sewage spill that occurred on April 29, 2008 from the equalization tank at the maintenance yard. On May 13, 2008, the Regional Board received correspondence from Mr. Dahlberg describing the location, sequence of events, response and cleanup of the April 29, 2008 spill. In his letter, Mr. Dahlberg stated that approximately 250 gallons to 300 gallons of secondary treated effluent were discharged from the riser of the equalization tank to the tennis court.
57. On May 5, 2008, Regional Board staff received a notification letter from Mr. Dahlberg regarding a sewage spill that occurred on April 25, 2008. In his correspondence, Mr. Dahlberg stated that a resident reported the spill to his office, which dispatched maintenance personnel to the location. The Park's maintenance crew reported that approximately 5 gallons of effluent had come out of the clean out of Unit # 130.
58. On May 15, 2008, Regional Board staff received notification from Mr. Dahlberg regarding a sewage spill that occurred at the maintenance yard on May 14, 2008. Mr. Dahlberg stated that the volume of the spill was approximately 125 gallons. Mr. Dahlberg also stated that the spill entered the storm water conveyance next to the tennis courts and was contained with sandbags. However, some of the wastewater percolated into the soil.
59. On July 19, 2008, Regional Board staff received a spill notification via phone from Mr. Dahlberg. Mr. Dahlberg reported that a spill occurred on Saturday, July 19, 2008 near Unit #199.
60. On July 25, 2008, Regional Board staff received a spill notification via email from Steve Dahlberg. Mr. Dahlberg stated that a resident reported the spill and a broken sewer line under the street near Unit #150 caused the spill. Mr. Dahlberg also stated that the spill was contained and cleanup of the affected area was completed.
61. On November 17, 2008, the Permittee's representative transmitted the first laboratory results from the new UV disinfection system to the Regional Board. Samples of total coliform and enterococcus, which were collected on November 5, 2008, were in compliance with effluent limitations contained in Order No. R4-2002-0108.

## **V. SOURCES OF INFORMATION**

62. The facts set forth above were obtained from the following sources:
  - a. Waste Discharge Requirements Order No. R4-2002-0108
  - b. Time Schedule Order No. R4-2002-0109

- c. Report from the Permittee's consultant dated July 23, 2002: Mountain Geology, Inc., July 23, 2002, Installation of Monitoring Wells # 1-10, Paradise Cove, 28128 Pacific Coast Highway, Malibu, CA
- d. Report from the Permittee's consultant dated October 21, 2002: Mountain Geology, Inc., October 21, 2002, Limited Engineering Report #2, Proposed Private Sewage Disposal System, Paradise Cove Trailer Park, Paradise Cove, 28128 Pacific Coast Highway, Malibu, CA.
- e. Report from the Permittee's consultant dated October 31, 2002: Environmental Planning & Design, LLC, October 31, 2002, Site Characterization Report for An Onsite Wastewater Dispersal System, for Paradise Cove Mobil Park at 28128 Pacific Coast Highway, Malibu, CA 90265.
- f. Report from the Permittee's consultant dated February 25, 2003: Report from the Permittee dated Mountain Geology, Inc., February 25, 2003, Supplement to the Report Documenting the Installation of Monitoring Wells # 11, 12, and 13, Paradise Cove, 28128 Pacific Coast Highway, Malibu, CA
- g. Letter from Nolte Associates, Inc. dated July 20, 2003
- h. Letter from Permittee dated August 13, 2003
- i. LARWQCB Request for Time Extension letter dated January 7, 2004
- j. Notice of Violation dated March 3, 2006
- k. Inspection report dated March 9, 2006
- l. Letter from Permittee dated March 30, 2006
- m. Inspection report dated August 22, 2006
- n. Notice of Violation dated September 26, 2006
- o. Letter from Permittee dated October 19, 2006
- p. Board Meeting transcripts dated October 24, 2006
- q. Amended Time Schedule Order No. R4-2006-0079
- r. Letter from Permittee dated October 25, 2006
- s. Notice of Violation dated November 8, 2006
- t. Petition for Review of the LARWQCB Order dated October 24, 2006
- u. Notice of Violation dated December 13, 2006
- v. Notice of Violation dated February 21, 2007
- w. Inspection Report dated May 8, 2007
- x. Letter from Permittee dated May 10, 2007
- y. Inspection Report dated June 12, 2007
- z. Notice of Violation dated August 8, 2007
- aa. Letter from Permittee dated August 10, 2007
- bb. Inspection report dated August 24, 2007
- cc. Letter from Permittee dated August 27, 2007
- dd. Cleanup and Abatement Order No. R4-2007-0043 dated September 5, 2007
- ee. Letter from Permittee dated September 7, 2007
- ff. Letter from Permittee dated September 11, 2007
- gg. Letter from Permittee dated September 20, 2007
- hh. Letter from Permittee dated September 27, 2007
- ii. Letter from Permittee received October 1, 2007
- jj. Letter from Permittee dated October 10, 2007
- kk. Letter from Permittee dated November 26, 2007

- ll. Letter from Permittee dated April 9, 2008
- mm. Letter from Permittee dated April 25, 2008
- nn. Letter from Permittee dated May 5, 2008
- oo. Letter from Permittee dated May 15, 2008
- pp. Phone call from Permittee received on July 19, 2008
- qq. Email from Permittee dated July 24, 2008
- rr. Letter from Permittee dated October 9, 2008
- ss. Memo to Paula Rasmussen dated February 3, 2009
- tt. Westlaw Real Property Tax Assessor Record for Assessor Parcel No. 4466-001-004
- uu. Westlaw Real Property Tax Assessor Record for Assessor Parcel No. 4466-001-005

## **VI. IMPACTS**

- 63. The spills reported at Paradise Cove Mobile Home Park are either a result of sewage back-ups and overflows into the street from the Permittee's manholes, seepage pits, or from the Parks residences. The volumes of the spills as reported by the Permittee range between 10 gallons and 750 gallons.
- 64. The unpermitted discharge of partially treated and untreated sewage at the Park is likely to have contributed to degradation of surface water and groundwater. The July 20, 2007 spill that occurred at the Park discharged into Ramirez Canyon Creek, which flows into the Pacific Ocean. The discharge of partially treated and untreated sewage at the Park can lead to:
  - a. Impacts to beneficial uses of surface water and groundwater,
  - b. Risks to the public as partially treated and untreated sewage may contain pathogenic organisms, viruses known to be harmful to human health and the environment, and
  - c. Conditions of pollution and nuisance.
- 65. Failing to meet the timelines established in Amended TSO No. R4-2006-0079 led to the continued discharges of untreated and treated wastewater at the Park causing risk to human health, and delayed full compliance with waste discharge requirements contained in Order No. R4-2002-0108.

## **VII. ALLEGED VIOLATIONS**

- 66. The Permittee violated Order No. R4-2002-0108 on 14 days by failing to submit groundwater monitoring reports for the 1<sup>st</sup> Quarter 2003 and 1<sup>st</sup> Quarter 2006 for pH, total and fecal coliform, enterococcus, nitrate-nitrogen, nitrite-nitrogen, total nitrogen, and total dissolved solids for Monitoring Well MW-4. These violations are listed in Table 1 attached hereto and incorporated herein by reference.
- 67. The Permittee violated Amended TSO No. R4-2006-0079 by failing to meet the deadlines for: (1) completing construction of the wastewater treatment plant by November 1, 2006, (2) abandoning all old septic tanks that are not part of the new system by December 1, 2006, and (3) for achieving full compliance with requirements prescribed in Order No. R4-

2002-0108 by February 1, 2007. These violations are listed in Table 2 attached hereto and incorporated herein by reference.

68. The Permittee violated Order No. R4-2002-0108 on three (3) occasions by discharging untreated and partially treated sewage from its collection or disposal system on April 30, 2007, May 1, 2007, and July 20, 2007. These violations are listed in Table 3 attached hereto and incorporated herein by reference.
69. The Permittee violated CAO No. R4-2007-0043 on fourteen (14) occasions by discharging untreated and partially treated sewage on September 10, 2007, September 13, 2007, September 18, 2007, September 21, 2007, September 22, 2007, October 7, 2007, November 19, 2007, March 3, 2008, April 4, 2008, April 25, 2008, April 29, 2008, May 14, 2008, July 19, 2008 and July 25, 2008 from its collection or disposal system. These violations are listed in Table 3 attached hereto and incorporated herein by reference.

### **VIII. POTENTIAL MAXIMUM CIVIL LIABILITY**

70. Section 13350(a)(1) of the CWC states that "(a) Any person who (1) violates any cease and desist order or cleanup and abatement order hereafter issued, reissued, or amended by a regional board or the state board...shall be liable civilly, and remedies may be proposed, in accordance with subdivision (d) or (e).
71. Section 13350(a)(2) of the CWC states that "(a) Any person who...(2) in violation of any waste discharge requirement, waiver condition, certification, or other order or prohibition issued, reissued, or amended by a regional board or the state board, discharges waste, or causes or permits waste to be deposited where it is discharged, into the waters of the state...shall be liable civilly, and remedies may be proposed, in accordance with subdivision (d) or (e)."
72. Pursuant to CWC section 13350(e), the Regional Board may impose civil liability administratively pursuant to CWC section 13323 *et seq.* in an amount, which shall not exceed five thousand dollars (\$5,000) for each day in which the violation occurs, or ten dollars (\$10) for each gallon of waste discharged, but not both.
73. The total maximum civil liability authorized by the California Water Code for violation of Order No. R4-2002-0108 for the unpermitted discharge of untreated or partially treated sewage, Amended TSO No. R4-2006-0079 for failing to meet prescribed deadlines, and CAO No. R4-2007-0043 for the unauthorized discharge of partially treated or untreated sewage is \$5,970,000.

The total number of days the Permittee was in violation was calculated by:

- a. Determining the number of days the Permittee discharged sewage in violation of Order No. R4-2002-0108 (3 days);

- b. Determining the number of days the Permittee discharged sewage in violation of CAO No. R4-2007-0043 (14 days);
- c. Determining the number of days the Permittee failed to meet the requirements of Amended TSO No. R4-2006-0073 Item A, between November 1, 2006 and August 12, 2007 (284 days);
- d. Determining the number of days the Permittee failed to meet the requirements of Amended TSO No. R4-2006-0073 Item B, between December 1, 2006 and July 26, 2007 (237 days);
- e. Determining the number of days the Permittee failed to meet the requirements of Amended TSO No. R4-2006-0073 Item C, between February 1, 2007 and November 4, 2008 (642 days);
- f. Determining the number of days the Permittee failed to monitor and report as required by Monitoring and Reporting Program CI No. 8342 (14 days); and
- g. Adding the amounts of "a," "b," "c," "d," "e" and "f" (in days) to calculate the total number of days in violation (1,194 days).

The potential maximum penalty pursuant to the California Water Code was calculated by:

- a. Multiplying the number of days the Permittee discharged sewage in violation of Order No. R4-2002-0108 by the maximum penalty allowed by CWC section 13350 (e);  
$$3 \text{ days} \times \$5,000 \text{ per day} = \$15,000$$
- b. Multiplying the number of days the Permittee discharged sewage in violation of CAO No. R4-2007-0043 by the maximum penalty allowed by CWC section 13350(e);  
$$14 \text{ days} \times \$5,000 \text{ per day} = \$70,000$$
- c. Multiplying the number of days the Permittee failed to meet the requirements of Item A in Amended TSO No. R4-2006-0073 by the maximum penalty allowed by CWC section 13350(e);  
$$284 \text{ days} \times \$5,000 \text{ per day} = \$1,420,000$$
- d. Multiplying the number of days the Permittee failed to meet the requirements of Item B in Amended TSO No. R4-2006-0073 by the maximum penalty allowed by CWC section 13350(e);  
$$237 \text{ days} \times \$5,000 \text{ per day} = \$1,185,000$$

- e. Multiplying the number of days the Permittee failed to meet the requirements of Item C in Amended TSO No. R4-2006-0073 by the maximum penalty allowed by CWC section 13350(e);

$$642 \text{ days} \times \$5,000 \text{ per day} = \$3,210,000$$

- f. Multiplying the number of days the Permittee failed to monitor and report as required by Monitoring and Reporting Program CI No. 8342;

$$14 \text{ days} \times \$5,000 \text{ per day} = \$70,000$$

- g. Adding the amounts of "a," "b," "c," "d," "e," and "f" (in \$) to calculate the maximum potential penalty (\$5,970,000).

#### POTENTIAL MAXIMUM PENALTY

Penalty Category	Calculation	Total
<i>Failure to comply with Order No. R4-2002-0108 (sewage spills)</i>	CWC § 13350(e)(1): 3 days x \$5,000/day	\$15,000
<i>Failure to comply with Cleanup and Abatement Order No. R4-2007-0043 (sewage spills)</i>	CWC § 13350(e)(1): 14 days x \$5,000/day	\$70,000
<i>Failure to comply with TSO No. R4-2006-0079 Item A (complete construction) from November 1, 2006 to August 12, 2007</i>	CWC § 13350 e)(1): 284 days x \$5,000/day	\$1,420,000
<i>Failure to comply with TSO No. R4-2006-0079 Item B (abandon septic tanks) from December 1, 2006 to July 26,, 2007</i>	CWC § 13350(e)(1): 237 days x \$5,000/day	\$1,185,000
<i>For failing to comply with TSO No. R4-2006-0079 Item C (achieve full compliance) from February 1, 2007 to November 4, 2008</i>	CWC § 13350(e)(1): 642 days x \$5,000/day	\$3,210,000
<i>Failure to submit groundwater monitoring report as required by Order No. R4-2002-0108</i>	CWC § 13350(e)(1): 14 days x \$5,000/day	\$70,000
<b>Potential Civil Liability</b>		<b>\$5,970,000</b>

**IX. RECOMMENDED CIVIL LIABILITY**

74. Pursuant to §13327 of the California Water Code, the Regional Board is required to consider the following factors in determining the amount of civil liability to be imposed:

a. Nature, circumstances, extent, and gravity of the violations:

The Permittee discharged untreated and partially treated wastewater, which created a risk to the public and conditions of pollution and nuisance at the Park. For over a year, the disinfection system was bypassed and partially untreated wastewater was discharged to the seepage pits. The volumes of the spills as reported by the Permittee were relatively small, ranging between 10 gallons and 750 gallons. Furthermore, the Permittee reported that when notified of an overflow, spill or back up, either the Permittee's own pump truck or an outside contractor is dispatched to the spill site and sand bags are installed to contain the effluent, and a maintenance crew conducts a cleanup of the area, including pumping up standing effluent and spraying the affected area with bleach. Therefore, a reduction from the maximum civil liability may be warranted.

The Permittee failed to comply with Amended TSO No. R4-2006-0073 from November 1, 2006 through November 4, 2008 by failing to meet the deadlines prescribed in Items A, B, and C. Failure to meet these deadlines resulted in discharges of untreated and partially treated sewage throughout the Park, and delayed compliance with Order No. R4-2002-0108. Therefore, a reduction from the maximum civil liability is not warranted.

b. Susceptibility of the cleanup or abatement of the discharge:

The untreated and partially treated sewage spills was readily susceptible to cleanup before reaching Ramirez Canyon Creek and the Pacific Ocean. In response to the spills, the Permittee used pump trucks to lessen the amount of sewage discharging from the collection system during the different events. Bacterial contamination of soil due to contact with untreated and partially treated wastewater was susceptible to cleanup, and an effort to sanitize the affected area was made by the Permittee. Therefore, a reduction from the maximum civil liability may be warranted.

c. Degree of toxicity of the discharge:

The untreated and partially treated wastewater contains bacteria and viruses known to be harmful to human health and the environment. The Permittee reported that impacted areas were cleaned and disinfected by "pumping up any puddles of effluent and spraying the entire area with bleach." Therefore, a reduction from the maximum civil liability may be warranted.

d. The ability of the Permittee to pay:

The Permittee owns and operates a 72-acre mobile home park on the Pacific Coast in Malibu, CA, with a 2007 assessed value of \$6,541,912. In addition, the Permittee receives monthly rent for each of the 257 mobile home spaces. Therefore, a reduction from the maximum civil liability may not be warranted.

e. The effect on the Permittee's ability to continue its business:

Imposing the maximum civil liability on the Permittee may negatively affect the Permittee's ability to continue operation of the Park. Therefore, a reduction from the maximum civil liability may be warranted.

f. Any voluntary cleanup efforts undertaken:

The Permittee undertook voluntary cleanup efforts following the spills that occurred on April 30, 2007, May 1, 2007, September 10, 2007, September 13, 2007, September 18, 2007, September 21, 2007, September 22, 2007, October 07, 2007, November 19, 2007, March 3, 2008, April 4, 2008, April 25, 2008, April 28, 2008, May 14, 2008, July 19, 2008 and July 25, 2008. The Permittee reported that the affected areas were cleaned and disinfected with bleach. The Permittee also reported that ponded wastewater and debris was collected and disposed of properly. Therefore, a reduction from the maximum civil liability may be warranted.

g. Prior history of violations:

The Permittee has a long history of sewage overflows at the Park; there were 180 overflows between 1995 and 1999, and 26 overflows were documented in the year 2000. The Los Angeles County Department of Environmental Health calls for beach closure if two consecutive samples have coliform levels above 5000 MPN/100mL. Information in the file indicated there was at least one official beach closure on May 12, 1997 that occurred at Paradise Cove beach.

The Permittee also has a history of failing to comply with the WDRs issued by the Regional Board. Furthermore, between February 2006 and March 2008, the Regional Board received email and phone reports of thirty-four (34) spills from residents of the Park, only seventeen (17) of which were reported by the Permittee itself (Table 3). Therefore, a reduction from the maximum civil liability is not warranted.

h. Degree of culpability:

The Permittee owns and operates the facility and its collection system, and therefore has the sole responsibility for the discharge. The Permittee failed to bring the Park into compliance with Order No. R4-2002-0108 and TSO No. R4-2006-0079 despite several NOV's issued by the Regional Board.

i. Economic benefit or savings, if any, resulting from the violations:

The Permittee experienced an economic savings of at least \$500 by avoiding the cost of sampling the following parameters as required by the monitoring and reporting program contained in Order No. R4-2002-0108:

Parameter Not Sampled	Samples Required	Cost per Sample	Total Avoided Cost
pH	2	\$10	\$20
Total coliform	2	\$25	\$50

Parameter Not Sampled	Samples Required	Cost per Sample	Total Avoided Cost
Fecal coliform	2	\$45	\$90
Enterococcus	2	\$45	\$90
Nitrate-nitrogen	2	\$25	\$50
Nitrite-nitrogen	2	\$25	\$50
Total Nitrogen	2	\$25	\$50
Total dissolved solids	2	\$50	\$100

The Permittee, however, did expend funds and resources to cleanup and recover the spills, which may have exceeded the costs saved by avoiding treatment of the sewage discharged. Therefore, a reduction from the maximum civil liability may not be warranted.

The Permittee failed to address changes and modifications that were necessary to complete construction of the wastewater treatment plant, to abandon old septic tanks, and failed to meet compliance deadlines. However, the Permittee has alleged that failure to complete the system in a timely manner is costing the Permittee almost \$25,000 per month in lost revenue. The Permittee claims that this is revenue that it would be entitled to in the form of rent increases but that it could not collect because the system had not been completed. While the Prosecution Team does not have confirmation of this allegation, consideration of this allegation may warrant a reduction from the maximum civil liability.

j. Other matters as justice may require:

An additional matter to consider includes time spent by the staff of the Regional Board in evaluating the incidents of violation and preparing this complaint and related documents. The Regional Board charges a rate of \$135 per hour for recovery of staff costs. With total staff time at approximately 300 hours, staff costs incurred by the Regional Board are estimated at \$40,500.

75. After consideration of the factors in § 13327 of the California Water Code, the Chief Deputy Executive Officer recommends that administrative civil liability be imposed on the Permittee by the Regional Board in the amount of \$1,652,500 which includes the following:

- a. An assessment of \$6,000 for the 3 days the Permittee discharged sewage from the Park's treatment collection system in violation of Order No. R4-2002-0108 during April 30, 2007, May 1, 2007, and July 20, 2007.

$$3 \text{ days} \times \$2,000 \text{ per day} = \$6,000$$

- b. An assessment of \$14,000 for the 14 days the Permittee discharged sewage from the Park's treatment collection system in violation of CAO No. R4-2007-0043 from September 10, 2007 through July 25, 2008.

$$14 \text{ days} \times \$1,000 \text{ per day} = \$14,000$$

- c. An assessment of \$254,000 for the 254 days (December 1, 2006\* to August 12, 2007) in which the Permittee failed to meet Item A in Amended TSO No. R4-2006-0073.

$$254 \text{ days} \times \$1,000 \text{ per day} = \$254,000$$

\*As stated earlier, during the October 24, 2006 hearing on Amended TSO R4-2006-0079, the Permittee testified that completion of the wastewater treatment plant was one month behind schedule. Accordingly, the Prosecution Team recommends that penalties for violations of Item A be assessed commencing December 1, 2006 to allow the Permittee a one-month grace period from the November 1, 2006 deadline.

- d. An assessment of \$103,000 for the 206 days (January 1, 2007\* to July 26, 2007) in which the Permittee failed to meet Item B in Amended TSO No. R4-2006-0073.

$$206 \text{ days} \times \$500 \text{ per day} = \$103,000$$

\* As stated earlier, during the October 24, 2006 hearing on Amended TSO R4-2006-0079, the Permittee testified that completion of the wastewater treatment plant was one month behind schedule. Accordingly, the Prosecution Team recommends that penalties for violations of Item B be assessed commencing January 1, 2007 to allow the Permittee a one-month grace period from the December 1, 2006 deadline.

- e. An assessment of \$1,228,000 for the 614 days (March 1, 2007\* to November 4, 2007) in which the Permittee failed to meet Item C in Amended TSO No. R4-2006-0073.

$$614 \text{ days} \times \$2,000 \text{ per day} = \$1,228,000$$

\* As stated earlier, during the October 24, 2006 hearing on Amended TSO R4-2006-0079, the Permittee testified that completion of the wastewater treatment plant was one month behind schedule. Accordingly, the Prosecution Team recommends that penalties for violations of Item C be assessed commencing March 1, 2007 to allow the Permittee a one-month grace period from the February 1, 2007 deadline.

- f. For failing to monitor and report as required by the Monitoring and Reporting Requirements prescribed in its permit.

$$14 \text{ days} \times \$500 \text{ per day} = \$7,000$$

g. Reimbursement of \$40,500 in Regional Board staff costs.

A calculation sheet for determining the number of unauthorized discharges of treated and untreated sewage at the Park, and the number of days the Permittee failed to meet the requirements of Amended TSO No. R4-2006-0073, and the number of days the Permittee failed to monitor as required are identified in Tables 1, 2 and 3 attached hereto.

### RECOMMENDED CIVIL LIABILITY

Penalty Category	Calculation	Total
<i>Failure to comply with Order No. R4-2002-0108 (sewage spills)</i>	CWC § 13350(e)(1): 3 days x \$2,000/day	\$6,000
<i>Failure to comply with Cleanup and Abatement Order No. R4-2007-0043 (sewage spills)</i>	CWC § 13350(e)(1): 14 days x \$1,000/day	\$14,000
<i>Failure to comply with TSO No. R4-2006-0079 Item A (complete construction) from December 1, 2006 to August 12, 2007</i>	CWC § 13350 (e)(1): 254 days x \$1,000/day	\$254,000
<i>Failure to comply with TSO No. R4-2006-0079 Item B (abandon septic tanks) from January 1, 2007 to July 26, 2007</i>	CWC § 13350 (e)(1): 206 days x \$500/day	\$103,000
<i>Failure to comply with TSO No. R4-2006-0079 Item C (achieve full compliance) from March 1, 2007 to November 4, 2008</i>	CWC § 13350 (e)(1): 614 days x \$2,000/day	\$1,228,000
<i>Failure to submit groundwater monitoring reports as required by Order No. R4-2002-0108</i>	CWC § 13350: 14 days x \$500/day	\$7,000
<i>Reimbursement for Staff Costs</i>	300 hours x \$135/hour	\$40,500
<b>TOTAL RECOMMENDED PENALTY</b>		<b>\$1,652,500</b>


76. The Permittee may waive its right to a hearing and pay the recommended civil liability. Should the Permittee choose to waive its right to a hearing, an authorized agent must sign the waiver form attached to this Complaint and return it to the Regional Board by 5:00 pm on February 27, 2009. If a hearing is waived, a check in the amount of \$1,652,500 (payable

The Kissel Company, Inc.

Administrative Civil Liability Complaint No. R4-2009-0017

to the Waste Discharge Permit Fund) must be received by the Regional Board by 5:00 pm on February 27, 2009.

77. If we do not receive a waiver and full payment of the recommended penalty by February 27, 2009, the Complaint will be heard before the Regional Board or Regional Board Hearing Panel pursuant to California Water Code §§ 13228.14 and 13323. The Notice of Public Hearing contains that date, time, location, and specific procedures of the scheduled hearing of this matter.
78. There are no statutes of limitations that apply to administrative proceedings. The statutes of limitations that refer to "actions" and "special proceedings" and are contained in the California Code of Civil Procedure apply to judicial proceedings, not administrative proceeding. See *City of Oakland v. Public Employees' Retirement System* (2002) 95 Cal. App. 4th 29, 48; 3 Witkin, Cal. Procedure (4th ed. 1996) Actions, §405(2), p. 510.)
79. This enforcement action is exempt from the provisions of the California Environmental Quality Act, California Public Resources Code section 21000 et seq., in accordance with California Code of Regulations, title 14, section 15321.

  
Deborah Smith  
Chief Deputy Executive Officer  
Los Angeles Regional Water Quality Control Board

February 4, 2009

**WAIVER FORM**

**FOR ADMINISTRATIVE CIVIL LIABILITY COMPLAINT NO. R4-2009-0017**

By signing this waiver, I affirm and acknowledge the following:

I am duly authorized to represent The Kissel Company, Inc. (hereinafter "Permittee") in connection with Administrative Civil Liability Complaint No. R4-2009-0017 (hereinafter the "Complaint"). I am informed that California Water Code section 13323, subdivision (b), states that, "a hearing before the regional board shall be conducted within 90 days after the party has been served [with the complaint]. The person who has been issued a complaint may waive the right to a hearing."

- ☐ **(OPTION 1: Check here if the Permittee waives the hearing requirement and will pay the recommended liability.)**
- a. I hereby waive any right the Permittee may have to a hearing before the Regional Water Board.
  - b. I certify that the Permittee will remit payment for the civil liability imposed in the amount of **\$1,652,500** by check that references "ACL Complaint No. R4-2009-0017" made payable to the "*Waste Discharge Permit Fund*". Payment must be received by the Regional Water Board by February 27, 2009 or this matter will be placed on the Regional Water Board's agenda for a hearing as initially proposed in the Complaint.
  - c. I understand the payment of the above amount constitutes a proposed settlement of the Complaint, and that any settlement will not become final until after the 30-day public notice and comment period expires. Should the Regional Water Board receive significant new information or comments from any source (excluding the Water Board's Prosecution Team) during this comment period, the Regional Water Board's Assistant Executive Officer may withdraw the complaint, return payment, and issue a new complaint. I understand that this proposed settlement is subject to approval by the Regional Water Board, and that the Regional Water Board may consider this proposed settlement in a public meeting or hearing. I also understand that approval of the settlement will result in the Permittee having waived the right to contest the allegations in the Complaint and the imposition of civil liability.
  - d. I understand that payment of the above amount is not a substitute for compliance with applicable laws and that continuing violations of the type alleged in the Complaint may subject the Permittee to further enforcement, including additional civil liability.
- ☐ **(OPTION 2: Check here if the Permittee waives the 90-day hearing requirement in order to engage in settlement discussions.)** I hereby waive any right the Permittee may have to a hearing before the Regional Water Board within 90 days after service of the complaint, but I reserve the ability to request a hearing in the future. I certify that the Permittee will promptly engage the Regional Water Board Prosecution Team in settlement discussions to attempt to resolve the outstanding violation(s). By checking this box, the Permittee requests that the Regional Water Board delay the hearing so that

The Kissel Company, Inc.

Administrative Civil Liability Complaint No. R4-2009-0017

the Permittee and the Prosecution Team can discuss settlement. It remains within the discretion of the Regional Water Board to agree to delay the hearing. Any proposed settlement is subject to the conditions described above under "Option 1."

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(Print Name and Title)

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(Signature)

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(Date)

Date	Monitoring Period	Monitoring Well	Parameter	Required Frequency	Number of Violations	Potential Maximum Penalty	Recommended Penalty
3/31/2003	1 <sup>st</sup> Quarter 2003	MW-4	pH	Quarterly	1	\$5,000	\$500
3/31/2003	1 <sup>st</sup> Quarter 2003	MW-4	Total and fecal coliform	Quarterly	1	\$5,000	\$500
3/31/2003	1 <sup>st</sup> Quarter 2003	MW-4	Enterococcus	Quarterly	1	\$5,000	\$500
3/31/2003	1 <sup>st</sup> Quarter 2003	MW-4	Nitrate-nitrogen	Quarterly	1	\$5,000	\$500
3/31/2003	1 <sup>st</sup> Quarter 2003	MW-4	Nitrite-nitrogen	Quarterly	1	\$5,000	\$500
3/31/2003	1 <sup>st</sup> Quarter 2003	MW-4	Total Nitrogen	Quarterly	1	\$5,000	\$500
3/31/2003	1 <sup>st</sup> Quarter 2003	MW-4	Total Dissolved Solids	Quarterly	1	\$5,000	\$500
3/31/2006	1 <sup>st</sup> Quarter 2006	MW-4	pH	Quarterly	1	\$5,000	\$500
3/31/2006	1 <sup>st</sup> Quarter 2006	MW-4	Total and fecal coliform	Quarterly	1	\$5,000	\$500
3/31/2006	1 <sup>st</sup> Quarter 2006	MW-4	Enterococcus	Quarterly	1	\$5,000	\$500
3/31/2006	1 <sup>st</sup> Quarter 2006	MW-4	Nitrate-nitrogen	Quarterly	1	\$5,000	\$500
3/31/2006	1 <sup>st</sup> Quarter 2006	MW-4	Nitrite-nitrogen	Quarterly	1	\$5,000	\$500
3/31/2006	1 <sup>st</sup> Quarter 2006	MW-4	Total Nitrogen	Quarterly	1	\$5,000	\$500
3/31/2006	1 <sup>st</sup> Quarter 2006	MW-4	Total Dissolved Solids	Quarterly	1	\$5,000	\$500
					<b>TOTAL</b>	<b>\$70,000</b>	<b>\$7,000</b>

Compliance History for  
The Kissel Company, Inc.  
Paradise Cove Mobile Home Park  
CI 8342

**Table 2**  
Complaint No. R4-2009-0017

Amended TSO Task	Compliance Achieved	Number of Days in Violation	Potential Maximum Penalty	Recommended Timeframe	Recommended Penalty
A. By November 1, 2006, complete construction of the wastewater treatment plant. Should there be any changes to the plant's final engineering plans dated April 2004, revised plans including "as built" drawings shall be submitted.	Construction of the Wastewater Treatment Plant was finalized on August 13, 2007	284 days (From November 1, 2006 to August 12, 2007)	\$1,420,000	254 days (From December 1, 2006 to August 12, 2007)	\$254,000
B. By December 1, 2006, remove or legally abandon septic tanks not part of the new treatment system, according to guidelines set by the Uniform Plumbing Code (1 - 11 a, b and c).	All septic tanks that were not part of the new Wastewater Treatment Plant were removed or legally abandoned on July 27, 2007	237 days (From December 1, 2006 to July 26, 2007)	\$1,185,000	206 days (From December 1, 2006 to July 26, 2007)	\$103,000
C. By February 1, 2007, achieve full compliance.	Achieve compliance on November 5, 2008	642 days (From February 1, 2007 to November 4, 2008)	\$3,210,000	614 days (From February 1, 2007 to November 4, 2008)	\$1,228,000
		<b>Total</b>	<b>\$5,815,000</b>		<b>\$1,585,000</b>

**Table 3**  
Complaint No. R4-2009-0017

Violation Summary for  
The Kissel Company, Inc.  
Paradise Cove Mobile Home Park  
CI 8342

Date	Type of Spill	Volume of Spill	Number of Days in Violation	Water Code Section 13350	Potential Maximum Penalty	Recommended Penalty
04/30/2007	Sewage Spill	200 gallons	1	(e)(2)	\$5,000	\$2,000
05/01/2007	Sewage Spill	200 gallons	1	(e)(2)	\$5,000	\$2,000
07/20/2007	Sewage Spill	100-150 gallons	1	(e)(2)	\$5,000	\$2,000
09/10/2007	Sewage Spill	500 gallons	1	(e)(1)	\$5,000	\$1,000
09/13/2007	Sewage Spill	500 gallons	1	(e)(1)	\$5,000	\$1,000
09/18/2007	Sewage Spill	5-10 gallons	1	(e)(1)	\$5,000	\$1,000
09/21/2007	Sewage Spill	unknown	1	(e)(1)	\$5,000	\$1,000
09/22/2007	Sewage Spill	unknown	1	(e)(1)	\$5,000	\$1,000
10/07/2007	Sewage Spill	50 gallons	1	(e)(1)	\$5,000	\$1,000
11/19/2007	Sewage Spill	10 gallons	1	(e)(1)	\$5,000	\$1,000
03/03/2008	Sewage Spill	unknown	1	(e)(1)	\$5,000	\$1,000
04/04/2008	Sewage Spill	5 gallons	1	(e)(1)	\$5,000	\$1,000
04/25/2008	Sewage Spill	5 gallons	1	(e)(1)	\$5,000	\$1,000
04/29/2008	Sewage Spill	250-300	1	(e)(1)	\$5,000	\$1,000
05/14/2008	Sewage Spill	125	1	(e)(1)	\$5,000	\$1,000
07/19/2008	Sewage Spill	unknown	1	(e)(1)	\$5,000	\$1,000
07/25/2008	Sewage Spill	unknown	1	(e)(1)	\$5,000	\$1,000
				<b>Total</b>	<b>\$85,000</b>	<b>\$20,000</b>